

COMMISSIONERS PROCEEDINGS
JANUARY 3, 2006
CLARK COUNTY, WASHINGTON

The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Stuart, Morris, and Boldt, Chair, present.

PLEDGE OF ALLEGIANCE

The Commissioners conducted the Flag Salute.

ELECTION OF CHAIR OF BOARD OF COMMISSIONERS

Commissioner Stuart nominated Commissioner Boldt to serve as the Chair for the Board of Commissioners for 2006. Motion seconded by Commissioner Morris. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 250a)

Morris nominated Commissioner Stuart to serve as Vice-Chair for the Board of Commissioners for 2006. Motion seconded by Commissioner Boldt. Commissioners Boldt, Morris, and Stuart voted aye. Motion carried. (See Tape 250a)

BID AWARD 2428

Reconvened a public hearing for Bid Award 2428 – Jail Paint Project. Mike Westerman, Director of General Services, read a memo recommending that Bid 2428 be awarded to the lowest bidder.

There being no public comment, **MOVED** by Stuart to award Bid 2428 to Siegner & Company of Portland, Oregon, in the total bid amount of \$27,235.18, including Washington State sales tax and grant authority to the County Administrator to sign all bid-related contracts. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 250a)

BID AWARD 2429

Reconvened a public hearing for Bid Award 2429 – Jail Mechanical Grille Replacement Project. Mike Westerman, Director of General Services, read a memo recommending that Bid 2429 be awarded to the lowest bidder.

Stuart asked Mr. Westerman to explain why there was such a bid difference in the dollar amounts of the two received bids.

Westerman said his sense was that because the second bidder didn't do a walk-through, they weren't very familiar with the area and precisely what they would have to do.

There being no public comment, **MOVED** by Stuart to award Bid 2429 to Streimer Sheet Metal Works, Inc., of Portland, Oregon, in the total bid amount of \$62,379.27, including Washington State sales tax and grant authority to the County Administrator to sign all bid-

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related contracts. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 250a)

PUBLIC COMMENT

George Vartanian, 2217 NE 179th Street, Ridgefield, referenced a letter he had submitted to the previous Board in June 2004 in regards to consideration being given to removing the Board of Commissioners' activities from the quasi-judicial functions involved in land use hearings and appeals. Mr. Vartanian said there were some basic philosophical issues involved, one being the separation of the legislative body activities from judicial activities. Second, he said it was difficult to be objective when hearing an appeal for something the board might have enacted legislatively or are in favor of. He said the elected legislatively body should be more involved earlier on than in an appeals process.

Morris said Mr. Vartanian has raised the issue of code—the code that defines what a Type II and Type III is. She said that is clearly a legislative issue and suggested he might want to make suggestions of how the code language can be amended for future application.

Vartanian said he would be happy to do so.

CONSENT AGENDA

Stuart had a question regarding item 2 (Request for approval to delete Program Manager II and add Planner III and .5 Office Assistant II).

Marty Snell, Department of Community Development-Long Range Planning, responded that after much discussion and several meetings, it was determined that they need a senior-type of position for transportation planning and in looking at the budget authority, they had the ability to hire a transportation planner, as well as a part-time office assistant. He added that a tremendous amount of work is currently going to the current OA III and providing part-time relief would be very valuable to the division.

Stuart said he assumed the transportation planner position would tie in pretty intricately with the Department Public Works.

Snell confirmed that was correct.

Boldt referenced item 1 (Interlocal Agreement with the Regional Transportation Council [RTC] for transportation modeling services) and wanted to know if it was related at all to item 2.

Snell said it was somewhat related in that its transportation related. He further explained. *Morris* verified that they are contracting with RTC to provide a service in the same way they might contract with a private sector company—for example, a company that does the

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Environmental Impact Statement—but they have a unique asset in their modeling. She further explained.

Stuart had a question regarding item 4 (service contract with United States Department of Agriculture to remove and/or relocate nuisance coyotes in Clark County). He asked if they had figured out what they would do with the coyotes.

Linda Moorhead, Department of Community Development-Animal Control, stated that they have a service agreement. She explained that they will make the referrals to USDA and they will determine first by contacting the parties before they decide whether they will eradicate the coyotes or just give them information on how to deal with them before the assessment is done. USDA would then contact County's Animal Control Department for approval before they respond.

Bill Barron, County Administrative, added that one of the things they are very sensitive to is making any kind of action with the animal the last resort. Mr. Barron stated that staff has done a great job researching this issue and he thought they had developed a public policy that takes all of the necessary nuances into account.

There being no public comment, **MOVED** by *Stuart* to approve items 1 through 19. Commissioners Boldt, *Stuart*, and Morris voted aye. Motion carried. (See Tape 250a)

COMMISSIONER COMMUNICATIONS

Morris commented that on Thursday, December 29, she was privileged to swear in the new Mayor of Washougal and the newly and re-elected members of their City Council.

Boldt expressed appreciation to Commissioner Morris for her service as WSAC president, as well as the Chair of the Board, and showing him and Commissioner *Stuart* what to do.

Stuart echoed Commissioner *Boldt*'s comments.

Adjourned

1:30 P.M.

PLEDGE OF ALLEGIANCE

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PUBLIC MEETING: SUNSET ESTATES SUBDIVISION – PLD2005-00053; SEP2005-00089;
EVR2005-00081

Held a public meeting to consider an appeal of the Clark County Land Use Hearing Examiner's decision regarding a Type III application for preliminary plat approval of an 8-lot residential subdivision on 2.23 acres zoned R1-10.

The Board of Commissioners did not receive public comment, oral or written, at this public meeting.

The Board certified reading the record.

Stuart addressed staff and said that a determination had been made by staff that the road exaction was not proportional to the impacts of the site. He said he didn't see any real analysis of why they had said that.

Morris said she had the same exact observation, but they cannot ask that question because it's either in the record or it's not. She referenced Exhibit 29, which says something is attached; however, it's not attached so it's not in their record.

Richard Daviau, Department of Community Development, asked if it was part of the road modification request.

Stuart said it was, but he wasn't sure if it was a question that was asked by the Hearing Examiner. He wanted to know if that was something that was addressed before the Hearing Examiner—staff's reason.

Daviau said the applicant had submitted a late road modification and that was during the open record period after the public hearing and staff had made comments that if they're not an exhibit, they were reflected in the Hearing Examiner's decision.

Morris stated that the Hearing Examiner makes a finding and his finding is that staff analyzed the material and found it to be trustworthy; however, there is no analysis in the notebook. There's no material or factual evidence or an exhibit to substantiate his findings. She said the refined question would be "was there evidence presented at the Hearings Examiner either by staff in terms of their analysis, or by the appellant on cost?"

Daviau referenced Exhibit 22 and said he thought it was the first road modification.

Stuart said if the Hearings Examiner is relying on an analysis by staff that it is not proportionate and there is no analysis of it being proportionate, he didn't know how the Hearings Examiner got there. If there are no facts that they based their determination on of their interpretation of

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what is proportionate, then he's having a hard time getting to the same point the Hearings Examiner got to.

Daviau said it appears it is in the original record in Exhibits 27 and perhaps more in Exhibit 28.

Morris said there is no work in any of those exhibits that show staff's analysis. She further explained.

Stuart said on the bottom of page two, Exhibit 28, it just says "staff considers the applicant's cost estimate for the improvements to be reasonable and concurs that the cost is disproportional to the impacts created." It doesn't give an analysis of why and staff's determination of why is what the Hearings Examiner is basing a decision on. *Stuart* said that's the missing link here.

Daviau said the only other place there might be discussion of the topography and other issues surrounding the road modification is the staff report itself.

Stuart said when he read the staff report it talked about how it could be done; that the topography was within the limits required to build a road so that it could be done. So it basically explained how you could do this road and why it was necessary given the development and scheme of the area. *Stuart* said the missing piece was the proportionality question of when does it stop being proportionate to the impacts associated with the development and where's the analysis of that? He said he couldn't find it. If it can be done and if there's no adequate analysis of why it's disproportionate, then he didn't see any reason to exempt it.

Morris agreed with Commissioner *Stuart*. She said disproportionality wasn't a new issue for them and one they've struggled with as long as she can remember. She said this did appear to be a difficult one to do; however, there were some opportunities for cost sharing. She said she thought this was appropriate for a developer agreement because there is undeveloped, contiguous property to the north. *Morris* stated that staff's first observation about poor circulation in the area was legitimate and that it was important to do as much east/west circulation as possible. She said that perhaps it was a case in which staff didn't show their work somewhere along the line. She said she would have to overturn the Hearings Examiner.

Boldt said in looking at 4 or 5 different reports, including the Hearings Examiner's, there were 7 or 8 different kinds of grades and slopes. He visited the site, and on the west side there's a greenway project so there's no way the road could go through the west. Heading east, it can go for a block; going north, there's Salmon Creek itself. So as far as cross-circulation, he couldn't see that there could be enough traffic circulating from this. Also, in looking at the property, he didn't see how a road could be built up the cliff unless they put in thousands of yards of fill to build the road up. *Boldt* said he personally thought it was much better suited for a park versus a development. Lastly, as a commissioner he didn't see how they could allow their road department to build that road because it's dangerous on the east and west sides. As a result, he would concur with the Hearings Examiner.

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Morris noted that it's undeveloped to the east so the road would stub to the east, but would eventually go through. She said one of the troubling things about the area is that there's only one main way in off of 36th Avenue through a residential area. She said the road may need to be built a different way, at a different location, etc. She noted that she doesn't build roads so she doesn't know.

Stuart said that within the record there is information from staff stating that it could be built and it had the grades such that it could be built within county standards and the Hearings Examiner didn't disagree with that. Even the applicant had said that's one of the things that is not feasible and they had appealed that piece, but he said he didn't recall the Hearings Examiner agreeing with the applicant on that. He said that he also doesn't build roads so he doesn't know about that or whether it's a place for a developer agreement or place for cost-sharing or what it would be right for—he didn't have the evidence to overturn on the feasibility aspect of it.

There being no further comment, **MOVED** by Stuart to reverse the Hearings Examiner's decision on Condition A-3 in the matter of PLD2005-00053 – Sunset Estates Subdivision. Commissioner Morris seconded the motion and added that they require the applicant to build the connection. Commissioners Stuart and Morris voted aye. Commissioner Boldt voted nay. Motion carried. (See Tape 250a)

BOARD OF COUNTY COMMISSIONERS

Marc Boldt/s/
Marc Boldt, Chair

Steve Stuart, Commissioner

Betty Sue Morris/s/
Betty Sue Morris, Commissioner

ATTEST:

Louise Richards/s/
Clerk of the Board

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